

Executive Summary – Enforcement Matter – Case No. 51756
City of Poteet
RN102078417
Docket No. 2016-0103-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Poteet WWTP, located at 1309 South 9th Street, approximately 9,500 feet southeast of the intersection of State Highway 16 and State Highway 476 in the southern section of Poteet, Atascosa County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 20, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,063

Amount Deferred for Expedited Settlement: \$2,012

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,051

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51756
City of Poteet
RN102078417
Docket No. 2016-0103-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 16, 2015
Date(s) of NOE(s): January 8, 2016

Violation Information

1. Failed to properly operate and maintain the Facility and all of its systems of collection, treatment and disposal. Specifically, the weir panels were not affixed to the clarifier walls (allowing wastewater to flow through gaps between the weir and clarifier walls), the sludge blanket level in the large clarifier was 10.5 feet in a total water depth of 14 feet, and only one out of three pumps installed at the collection system lift station was operational [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Operational Requirements No. 1].
2. Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an effluent violation which deviates from the permitted effluent limitation by more than 40%. Specifically, noncompliance notifications were not submitted for effluent violations that deviated from the permitted effluent limitation by more than 40% of the daily maximum concentration for *Escherichia coli*, daily average concentration of ammonia nitrogen, and/or daily average and daily maximum concentrations of total suspended solids during October and December 2014, and January through May, August and September 2015, as required [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c.].
3. Failed to properly collect effluent samples. Specifically, composite samples collected for total suspended solids, carbonaceous biochemical oxygen demand, and ammonia nitrogen were not combined in volume proportional to flow as required [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.9(c) and TPDES Permit No. WQ0013630001, Effluent Limitations and Monitoring Requirements No. 1].
4. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, approximately 200 gallons of wastewater were discharged from the lift station pump onto the ground on October 2, 2015, due to pump failure [30 TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0013630001, Permit Conditions No. 2.g.].

Executive Summary – Enforcement Matter – Case No. 51756
City of Potect
RN102078417
Docket No. 2016-0103-MWD-E

5. Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an unauthorized discharge. Specifically, a noncompliance notification for the discharge that occurred on October 2, 2015, was not reported until October 16, 2015 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.b.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. By October 16, 2015:

i. Repaired the lift station pump;

ii. Provided written notification to the San Antonio Regional Office and the Enforcement Division of an unauthorized discharge that occurred on October 2, 2015; and

iii. Cleaned and disinfected the areas affected by discharges.

b. By February 19, 2016:

i. Repaired two collection system lift station pumps;

ii. Properly attached the weir panels to the clarifier walls; and

iii. Removed and disposed of excess sludge from the large clarifier.

c. By February 24, 2016, provided written notifications to the San Antonio Regional Office and the Enforcement Division for the October and December 2014, and January through May, August and September 2015 effluent violations which deviated from the permitted effluent limitations by more than 40%.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days, begin collecting composite samples that are combined in volume proportional to flow; and

b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 51756
City of Poteet
RN102078417
Docket No. 2016-0103-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Alex Laje, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2547; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Richard E. Tuttle, Sr., Mayor, City of Poteet, P.O. Box 378, Poteet, Texas 78065
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	11-Jan-2016	Screening	20-Jan-2016	EPA Due	
	PCW	22-Mar-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Poteet
Reg. Ent. Ref. No.	RN102078417
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations 5 Order Type 1660 Government/Non-Profit Yes Enf. Coordinator Jill Russell EC's Team Enforcement Team 3
Enf./Case ID No.	51756	
Docket No.	2016-0103-MWD-E	
Media Program(s)	Water Quality	
Multi-Media		
Admin. Penalty \$	Limit Minimum \$0	Maximum \$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Adjustment **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$128
Estimated Cost of Compliance	\$7,700

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for ten months of self-reported effluent violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Operational Requirements No. 1

Violation Description Failed to properly operate and maintain the Facility and all of its systems of collection, treatment and disposal, as documented during an investigation conducted on November 16, 2015. Specifically, the weir panels were not affixed to the clarifier walls (allowing wastewater to flow through gaps between the weir and clarifier walls), the sludge blanket level in the large clarifier was 10.5 feet in a total water depth of 14 feet, and only one out of three pumps installed at the collection system lift station was operational.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

65 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the November 16, 2015 investigation date to the January 20, 2016 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance by February 19, 2016.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$733

This violation Final Assessed Penalty (adjusted for limits) \$733

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 51756
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$2,000	16-Nov-2015	19-Feb-2016	0.26	\$2	\$35
Buildings				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0
Engineering/Construction				0.00	\$0	\$0
Land				0.00	\$0	n/a
Record Keeping System				0.00	\$0	n/a
Training/Sampling				0.00	\$0	n/a
Remediation/Disposal	\$5,000	16-Nov-2015	19-Feb-2016	0.26	\$65	\$65
Permit Costs				0.00	\$0	n/a
Other (as needed)				0.00	\$0	n/a

Notes for DELAYED costs

Estimated equipment cost to repair two collection system lift station pumps and properly attach the weir panels to the clarifier walls. Date required is the investigation date. Final date is the compliance date. Estimated remediation/disposal cost to remove and dispose of excess sludge from the large clarifier. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$7,000

TOTAL \$102

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c

Violation Description

Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an effluent violation which deviates from the permitted effluent limitation by more than 40%, as documented during an investigation conducted on November 16, 2015. Specifically, noncompliance notifications were not submitted for effluent violations that deviated from the permitted effluent limitation by more than 40% of the daily maximum concentration for Escherichia coli, daily average concentration of ammonia nitrogen, and/or daily average and daily maximum concentrations of total suspended solids ("TSS") during October and December 2014, and January through May, August and September 2015, as required.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 9

454 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$11,250

Nine single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$7,103

This violation Final Assessed Penalty (adjusted for limits) \$7,103

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 51756
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$225	27-Nov-2014	24-Feb-2016	1.24	\$14	n/a	\$14

Notes for DELAYED costs

Estimated other cost to properly provide written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an effluent violation which deviates from the permitted effluent limitation by more than 40% (9 x \$25 per notification). Date required is the date the initial noncompliance notification was due. Final date is the date the notifications were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$225

TOTAL

\$14

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.9(c) and TPDES Permit No. WQ0013630001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to properly collect effluent samples, as documented during an investigation conducted on November 16, 2015. Specifically, composite samples collected for TSS, carbonaceous biochemical oxygen demand, and ammonia nitrogen were not combined in volume proportional to flow, as required.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

65 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the November 16, 2015 investigation date to the January 20, 2016 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$789

This violation Final Assessed Penalty (adjusted for limits) \$789

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 51756
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
 Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0		\$0
Buildings			0.00	\$0	\$0		\$0
Other (as needed)			0.00	\$0	\$0		\$0
Engineering/Construction			0.00	\$0	\$0		\$0
Land			0.00	\$0	n/a		\$0
Record Keeping System			0.00	\$0	n/a		\$0
Training/Sampling	\$250	16-Nov-2015	22-Oct-2016	0.93	\$12	n/a	\$12
Remediation/Disposal			0.00	\$0	n/a		\$0
Permit Costs			0.00	\$0	n/a		\$0
Other (as needed)			0.00	\$0	n/a		\$0

Notes for DELAYED costs Estimated cost to begin collecting composite samples that are combined in volume proportional to flow. Date required is the investigation date. Final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0		\$0
Personnel			0.00	\$0	\$0		\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0		\$0
Supplies/Equipment			0.00	\$0	\$0		\$0
Financial Assurance [2]			0.00	\$0	\$0		\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0		\$0
Other (as needed)			0.00	\$0	\$0		\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$12

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 4

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and (4), and TPDES Permit No. WQ0013630001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, as documented during an investigation conducted on November 16, 2015. Specifically, approximately 200 gallons of wastewater were discharged from the lift station pump onto the ground on October 2, 2015, due to pump failure.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the date the discharge began on October 2, 2015 to the date of compliance, October 16, 2015.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDRP/ Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by October 16, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$649

This violation Final Assessed Penalty (adjusted for limits) \$649

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 51756
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$100	2-Oct-2015	16-Oct-2015	0.04	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$100	2-Oct-2015	16-Oct-2015	0.04	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated equipment cost to repair the lift station pump. Date required is the date of the documented unauthorized discharge. Final date is the compliance date.

Estimated remediation/disposal cost to clean and disinfect the areas affected by the discharge. Date required is the date of the documented unauthorized discharge. Final date is the date that remediation was completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$0

Screening Date 20-Jan-2016

Docket No. 2016-0103-MWD-E

PCW

Respondent City of Poteet

Policy Revision 4 (April 2014)

Case ID No. 51756

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102078417

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.b.i

Violation Description

Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an unauthorized discharge, as documented during an investigation conducted on November 16, 2015. Specifically, a noncompliance notification for the discharge that occurred on October 2, 2015, was not reported until October 16, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$789

This violation Final Assessed Penalty (adjusted for limits) \$789

Economic Benefit Worksheet

Respondent City of Poteet
Case ID No. 51756
Reg. Ent. Reference No. RN102078417
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	9-Oct-2015	16-Oct-2015	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated other cost to properly provide written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an unauthorized discharge (\$25 per notification). Date required is the date the noncompliance notification was due. Final date is the date the notifications were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$25

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600734818, RN102078417, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600734818, City of Poteet **Classification:** SATISFACTORY **Rating:** 7.70

Regulated Entity: RN102078417, City Of Poteet WWTP **Classification:** SATISFACTORY **Rating:** 7.70

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: Located at 1309 South 9th Street, approximately 9,500 feet southeast of the intersection of State Highway 16 and State Highway 476 in the southern section of Poteet in Atascosa County

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WASTEWATER PERMIT WQ0013630001

WASTEWATER EPA ID TX0032387

WASTEWATER AUTHORIZATION R13630001

WASTEWATER LICENSING LICENSE WQ0013630001

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: January 12, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 12, 2011 to January 12, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 01/12/2015 ADMINORDER 2014-0779-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Eff. Lim. Mon. Req. Nos 1, 3, & 6 PERMIT
Description: Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

9 Date: 09/30/2015 (1296924) CN600734818
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

10 Date: 10/31/2015 (1302374) CN600734818
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF POTEET
RN102078417**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2016-0103-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Poteet ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 1309 South 9th Street, approximately 9,500 feet southeast of the intersection of State Highway 16 and State Highway 476 in the southern section of Poteet in Atascosa County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 13, 2016.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Sixty-Three Dollars (\$10,063) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Fifty-One Dollars (\$8,051) of the administrative penalty and Two Thousand Twelve Dollars (\$2,012) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. By October 16, 2015:
 - i. Repaired the lift station pump;
 - ii. Provided written notification to the San Antonio Regional Office and the Enforcement Division of an unauthorized discharge that occurred on October 2, 2015; and
 - iii. Cleaned and disinfected the areas affected by discharges.
 - b. By February 19, 2016:
 - i. Repaired two collection system lift station pumps;
 - ii. Properly attached the weir panels to the clarifier walls; and
 - iii. Removed and disposed of excess sludge from the large clarifier.
 - c. By February 24, 2016, provided written notifications to the San Antonio Regional Office and the Enforcement Division for the October and December 2014, and January through May, August and September 2015 effluent violations which deviated from the permitted effluent limitations by more than 40%.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to properly operate and maintain the Facility and all of its systems of collection, treatment and disposal, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013630001, Operational Requirements No. 1, as documented during an investigation conducted on November 16, 2015. Specifically, the weir panels were not affixed to the clarifier walls (allowing wastewater to flow through gaps between the weir and clarifier walls), the sludge blanket level in the large clarifier was 10.5 feet in a total water depth of 14 feet, and only one out of three pumps installed at the collection system lift station was operational.
2. Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an effluent violation which deviates from the permitted effluent limitation by more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.c, as documented during an investigation conducted on November 16, 2015. Specifically, noncompliance notifications were not submitted for effluent violations that deviated from the permitted effluent limitation by more than 40% of the daily maximum concentration for *Escherichia coli*, daily average concentration of ammonia nitrogen, and/or daily average and daily maximum concentrations of total suspended solids ("TSS") during October and December 2014, and January through May, August and September 2015, as required.
3. Failed to properly collect effluent samples, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.9(c) and TPDES Permit No. WQ0013630001, Effluent Limitations and Monitoring Requirements No. 1, as documented during an investigation conducted on November 16, 2015. Specifically, composite samples collected for TSS, carbonaceous biochemical oxygen demand, and ammonia nitrogen were not combined in volume proportional to flow, as required.
4. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of 30 TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0013630001, Permit Conditions No. 2.g, as documented during an investigation conducted on November 16, 2015. Specifically, approximately 200 gallons of wastewater were discharged from the lift station pump onto the ground on October 2, 2015, due to pump failure.

5. Failed to submit written notification to the San Antonio Regional Office and the Enforcement Division within five working days of becoming aware of an unauthorized discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013630001, Monitoring and Reporting Requirements No. 7.b.i, as documented during an investigation conducted on November 16, 2015. Specifically, a noncompliance notification for the discharge that occurred on October 2, 2015, was not reported until October 16, 2015.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Poteet, Docket No. 2016-0103-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, begin collecting composite samples that are combined in volume proportional to flow, in accordance with 30 TEX. ADMIN. CODE § 319 and TPDES Permit No. WQ0013630001, Effluent Limitations and Monitoring Requirements.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with copies to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to:
(1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Tom Davis

For the Executive Director

8/8/16

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Richard E Tuttle Sr

Signature

4-14-16

Date

Richard E. Tuttle SR

Name (Printed or typed)
Authorized Representative of
City of Poteet

MAYOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.